

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Gallagher

DATE: 11/8/76

FROM : J. S. Peelman

SUBJECT: HOUSE SELECT COMMITTEE
ON ASSASSINATIONS

- 1 - Mr. Gallagher
- 1 - Mr. Ingram
- 1 - Mr. Peelman
- 1 - Mr. Helterhoff
- 1 - Mr. Cooke
- 1 - Mr. Burton
- 1 - Mr. Deegan

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PURPOSE: To furnish comments by the Civil Rights Section, General Investigative Division (GID), as to Committee access to the Civil Rights investigation into the assassination of Dr. Martin Luther King, Jr. (Bufile 44-38861).

SYNOPSIS: House Select Committee on Assassinations has requested access to FBI files and Department of Justice files concerning the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. (copy of Committee letter attached). Legal Counsel Division has requested comments from GID re Committee access. (Copy of Legal Counsel memorandum attached.) Dr. King was assassinated on 4/4/68 and the FBI conducted an immediate Civil Rights investigation per the request of the Department. Our investigative results were furnished to the Department and based upon the authority from the Department, certain pertinent investigative results were furnished to the State of Tennessee authorities. James Earl Ray pled guilty on 3/10/69 to the murder of Dr. King before a state court in Tennessee and presently is in local confinement. In November, 1975, the Attorney General directed Assistant Attorneys General Pottinger and Thornburgh to review the files relating to Martin Luther King and make a recommendation as to whether the assassination case should be reopened. In April, 1976, the Attorney General requested the Department's Office of Professional Responsibility (OPR) to complete the review of all records re Dr. King. The Department's OPR still has this King matter under review. Any decision relative to Committee access to the Civil Rights assassination investigation of Dr. King rests within the province of the Department. The Department should also be advised that in making its decision it should also consider:

Enclosures (3)

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44-38861

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ADDENDUM: LEGAL COUNSEL DIVISION PVD:mcz 11/12/76

As to the questions raised by the General Investigative Division in this memorandum, Legal Counsel Division makes the following observations:

The authority of a committee of Congress to make a request for information is derived from the authority to seek information to fulfill a legislative function, and in this instance this particular committee is acting pursuant to a resolution of the House of Representatives. The more critical question rather than the authority for the request is the kind of information the committee will receive, and it is for this reason that the standards set forth in the agreement between the Attorney General and the Chairman of the Senate Select Committee on Intelligence, Frank Church, are being used to govern this question.

The possibility, of course, could be raised that the Select Committee on Assassinations is not a properly constituted Committee in that it has^{not} been created to serve a legislative function, but it is not believed advisable nor desirable to raise this particular issue since there would appear to be little hope of obtaining support in the Department or elsewhere in such a challenge.

Concerning the invasion of privacy "of those individuals who furnished information in a criminal case." It should be noted the Privacy Act does not preclude or prohibit responding to a legitimate request of a committee of Congress. The question of protecting identity of informants, persons who furnished information on a confidential basis, raised in this memorandum is addressed in the aforementioned agreement between Senator Church and the Attorney General which is governing the furnishing of information to this committee and provides for the protection of the identities of such people. The third agency rule providing for clearance prior to the furnishing of information to the Committee will also be followed.

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The problem presented by the fact James Earl Ray was convicted of the assassination of Martin Luther King, Jr., may be currently appealing his conviction is known to the Department, and Larry Callaghan, Deputy Assistant Attorney General, Office of Legislative Affairs, has indicated this factor will not preclude committee access to the information involved.

RECOMMENDATION:

That the captioned Committee be granted access to the information they seek, governed by the agreement with the Senate Select Committee on Intelligence Activities.

prod *rf*

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